IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

WP(C).No. 20121 of 2007(U)

PETITIONER:

AVARA HAJI, KATTUKANDAN HOUSE,
KULUKKILIYAD.P.O.,
SREEKRISHNAPURAM (VIA.),
OTTAPPALAM TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

RESPONDENTS:

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1. THE DISTRICT COLLECOR, MALAPPURAM.

2. THE DEPUTY COLLECTOR (R.R.),
CO-OPERATIVE SOCIETIES,
KERALA STATE FINANCIAL ENTERPRISES LTD.,
"BADRATHA", TRISSUR.

3. THE BRANCH MANAGER,
KERALA STATE FINANCIAL ENTERPRISES LTD.,
PERINTHALMANNA BRANCH, MALAPPURAM DISTRICT.

4. THE KERALA STATE FINANCIAL ENTERPRISES LTD.,
PERINTHALMANNA BRANCH, MALAPPURAM DISTRICT,
REPRESENTED BY BRANCH MANAGER.

5. THE SPECIAL DEPUTY TAHSILDAR (R.R.),
KERALA STATE FINANCIAL ENTERPRISES LTD.,
PALAKKAD.

BY ADV. SHRI.T.NAVEEN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/06/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 20121 of 2007

Dated, this the 29th day of June, 2007

J U D G M E N T

Even though petitioner's grievance is that he is not granted reduction in interest by KSFE, it is seen from Ext.P8 issued by the Managing Director that he has given a rebate of Rs. 1,32,772/- for the petitioner to settle liability under OTS Scheme. According to the petitioner, he is not in a position to remit the entire amount within the time granted by the Managing Director. Prayer is for installment facility to clear the arrears. In the first place, petitioner is bound to pay future interest for availing further time for payment. Secondly, petitioner has not stated in Court as to the source for payment of big amounts in installments. However, since liability is covered by security through mortgage of property, I feel petitioner can be given an option to settle liability in installments or by arranging sale of a portion or full of the mortgaged property subject to the condition that petitioner will pay simple interest at 12% p.a. on Rs. 7,45,666/- from 01/07/2007 till date of payment. The petitioner is free to remit arrears under any of the following two schemes. Rupees one lakh will be paid on or before

31/07/2007 and along with it petitioner will give an undertaking to respondents to arrange for sale of part or full of the mortgaged property and to settle balance liability within two months thereafter. The petitioner can negotiate for sale of property and can even enter into agreement for sale. However, sale deed will be executed only after paying the balance with interest as above. On the other hand, if petitioner does not want to sell property and is in a position to clear the arrears in monthly installments of rupees one lakh each, petitioner will clear the arrears in monthly installments of Rs. 1 lakh with interest at 12 % p.a. until arrears are cleared, first of which will be paid on or before 31/07/2007 and the balance on or before the last day of succeeding months until arrears are fully cleared. If payments are made voluntarily, no collection charges should be recovered from the petitioner. If petitioner commits default in payment under either of these methods, the facility will stand vacated on first default and respondents will be free to proceed for sale of mortgaged property and recover the arrears.

W.P. is disposed of as above.

Issue photocopy today itself.

Sd/-

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg